

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHOPIFY, INC., et al., :
: :
Plaintiffs, :
: :
v. : : Civil Action No. 19-439-RGA
: :
EXPRESS MOBILE, INC., :
: :
Defendant. : :
:

ORDER AFTER PRETRIAL CONFERENCE

Now, this 17th day of August, 2022, after a pretrial conference (D.I. 342), and upon consideration of the revised proposed pretrial order (D.I. 400), IT IS HEREBY ORDERED that:

1. The Proposed Pretrial Order (D.I. 400) is **ADOPTED** as modified by any subsequent orders (including D.I. 403, 406, 407, and 410).
2. A jury trial will begin on August 22, 2022 at 9:30 a.m. with jury selection, with trial scheduled for August 22, 23, 29, 30, and 31. Each side should be prepared to present its case until 5:00 p.m. of each trial day, although the end of the trial day may, in the discretion of the Court, be earlier than 5:00 p.m.
3. The trial is timed. Each side is allowed 10 hours and 20 minutes for its opening statement and its direct and cross-examination of witnesses, and an additional 40 minutes for closing argument. (D.I. 342 at 29:9-30:14). Time during the trial day that does not neatly fit into one of those categories will be attributed to one side or the other as the Court thinks most appropriate. The amount of time allowed for closing argument will be decided during trial.

4. Trial counsel are to be present and ready to proceed at 9:00 a.m. each and every day of trial. **COUNSEL SHOULD UNDERSTAND THAT THERE MAY BE LONG LINES (PARTICULARLY WHEN A JURY IS BEING SELECTED) TO ENTER THE COURTHOUSE AND SHOULD PLAN ACCORDINGLY.** Issues that need to be addressed outside the presence of the jury will be taken up at 9 a.m. and at the end of the day. There will be up to an hour for lunch and a fifteen-minute break in both the morning and the afternoon. The Court does not generally want to use the lunch and break time to take up issues that need to be addressed outside the presence of the jury.

5. Unless otherwise ordered, Plaintiff is responsible for the preparation and revising of the jury instructions and verdict form that will be given to the jury. The Court expects to give the bulk of the jury instructions before the closing arguments are made.

6. The motions in limine have all been resolved by separate order.

7. Any trial logistics should be coordinated through the Courtroom Deputy.

/s/ Richard G. Andrews

United States District Judge